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March 9, 1999

VIA MESSENGER

EX PARTE OR LATE FILED

Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re CC Docket No. 98-147

Dear Ms. Salas:

In recent discussions with Commissioners and staff regarding the captioned proceeding, Jeffrey Blumenfeld, Glenn Manishin, and the undersigned, counsel for Rhythms NetConnections Inc. ("Rhythms") and MachOne Communications, Michael Olsen and Ruth Milkman, counsel for NorthPoint Communications and Thomas Koutsky, counsel for Covad Communications have strongly urged the Commission to adopt the *Advanced Services* item presently before it at the next Commission Open Meeting without any further delay.

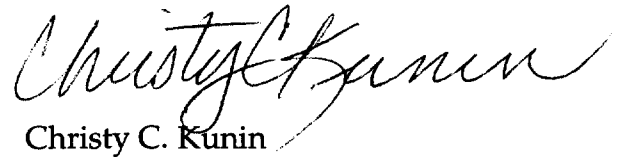
In addition, the companies have urged the Commission to include additional language pertaining to loops to address the critical concerns of data providers. Pursuant to that suggestion, enclosed for consideration by the Commission are two suggested language proposals for inclusion in the pending item. We appreciate the Commission consideration of inclusion this language. We reiterate, however, that it is critical to the continued development of advanced services that the Commission issue the *Advanced Services Order* at the next meeting.

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Magalie Roman Salas
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Pursuant to Section 1.1206 of the Commission's Rules, two copies of this letter and attachments are enclosed for filing. Please contact me should you have any questions in regard to this matter.

Sincerely,



Christy C. Kunin

CCK:hs

cc: Tom Power
Kathy Brown
Linda Kinney
Kyle Dixon
Paul Gallant
Kevin Martin
Larry Strickling
Carol Matthey
Jordan Goldstein
Jonathan Askin
Bob Atkinson
Chris Wright
Suzanne Tetreault
Jeff Lanning

Proposed Language: Alternative #1

##. We also take this opportunity to restate our decision that where ILECs offer access to unbundled loops pursuant to interconnection agreements, where required by the Act, or pursuant to our rules, or other commitments, they must make available DSL-capable loops on a nondiscriminatory basis, regardless of whether the incumbent LEC itself would provide advanced services to the customer served by the loop. We reaffirm our decision from last August that incumbent LECs must take “affirmative steps” to make available all copper loops free of loading coils, bridged taps, and other electronic impediments. *See Advanced Services Order* (August 7, 1998) at ¶ 53. This includes the requirement that incumbent LECs make available alternate all-copper unbundled loops by reassigning an end user (exchanging loops) to provide a physical copper loop where the end user is presently served by a loop that includes fiber transmission or passes through remote terminals or other impeding electronics. (¶ 166-67.)

##. In making this statement, we do not prejudice in any respect the outcome of the rulemaking on UNEs that we commence today. In the UNE remand proceeding, we tentatively conclude that ILECs should be required to offer access to loops. In addition, ILECs have committed to provide to competitive LECs UNEs available under existing interconnection agreements, including loops. In order to avoid customer disruption or to impair the continuing rapid deployment of broadband DSL services by competitive LECs during the pendency of the UNE rulemaking, we reconfirm that for DSL carriers, “loops” means loops capable of supporting digital, including xDSL, services.

Proposed Language: Alternative #2

##. The *Advanced Services* docket provides a recent and extensive record on the relationship among unbundled loops, DSL, and advanced services. All parties to that docket strongly supported the availability of unbundled local loops as the fundamental building block of DSL, which in turn underlies a significant segment of the advanced services market. Indeed, in petitioning for deregulation of their own advanced services offerings, the ILEC petitioners asserted that the availability of unbundled loops and collocation was both assured and sufficient to sustain competition from DSL competitive LECs. *See, e.g.,* Bell Atlantic Petition, Docket 98-11 (filed Jan 26, 1998) at 21. Based on this uncontested record regarding this fundamental monopoly element, it is highly unlikely under any standard for unbundling network elements consistent with the Act and the Supreme Court's decision that loops for DSL providers would not be an unbundled element.

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